

CITY COUNCIL OF THE
City of Annapolis

Ordinance No. O-25-11 Amended

Introduced by: Alderman Kirby and Mayor Cohen

LEGISLATIVE HISTORY			
First Reading	Public Hearing	Fiscal Impact Note	180 Day Rule
11/28/11	4/22/13	1/7/12	5/25/12
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	11/28/11	5/14/13	Favorable
Planning Commission	11/28/11	3/8/13	Favorable w/ amd.

A ORDINANCE concerning

The Definition of a Two-family Dwelling

FOR the purpose of including "two-family dwelling" in the definition of "single-family attached dwelling."

BY repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2012 Edition

Section 21.72.010
Section 21.40.050
Section 21.40.060
Section 21.42.060
Section 21.40.060
Section 21.46.030
Section 21.46.040
Section 21.46.050
Section 21.48.010
Section 21.58.030

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

21.40.050 - R2 Single-Family Residence district.

D. Uses Deemed Conforming.

1. A stadium is deemed to be conforming, pursuant to Section 21.68.030 of this Zoning Code, provided that it was legally existing on July 1, 2009, and may be altered or expanded subject to approval through the special exception process, pursuant to Chapter 21.22 of this Zoning Code.

2. DUPLEX UNITS EXISTING ON AUGUST 10, 1970, MAY BE ALTERED OR ENLARGED PROVIDED THAT THE ALTERATION OR ENLARGEMENTS OTHERWISE

1 MEET THE PROVISIONS OF THE R2 ZONING DISTRICT INCLUDING THE SETBACK AND
2 HEIGHT LIMITATIONS IN ACCORDANCE WITH SINGLE-FAMILY DETACHED DWELLINGS,
3 EXCEPT THAT THE SHARED LOT LINE BETWEEN EACH HALF OF THE DUPLEX UNIT
4 MUST MEET THE PROVISIONS OF THE R3, GENERAL RESIDENCE DISTRICT, AND
5 SUBJECT TO MINOR SITE DESIGN PLAN REVIEW
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8 21.40.060 - R2-NC Single-Family Residence Neighborhood Conservation district.

9 E.

10 1. The following uses are deemed to be conforming, pursuant to Section 21.68.030 of
11 this Zoning Code, provided they were legally existing on November 19, 1990:

12 a. Single-family attached and detached dwellings.

13 b. TWO-FAMILY DWELLINGS.

14 c. Nonresidential uses, except for uses listed in subsection (E)(2) of this section, and

15 d. Multi-family dwellings of five or fewer units.

16 3. SINGLE-FAMILY ATTACHED AND DETACHED DWELLINGS AND TWO-FAMILY
17 DWELLINGS DEEMED CONFORMING MAY BE EXPANDED FOR RESIDENTIAL USE IF
18 THEY OTHERWISE MEET THE REQUIREMENTS OF THIS DISTRICT, INCLUDING THE
19 SETBACK AND HEIGHT LIMITATIONS IN ACCORDANCE WITH SINGLE-FAMILY
20 DETACHED DWELLINGS. IN THE CASE OF ANY ALTERATION, EXPANSION, OR
21 MODIFICATION TO A TWO-FAMILY DWELLING, THE FRONT SETBACK AND ELEMENTS
22 OF THE FRONT FAÇADE, INCLUDING ANY SINGLE PLANE, WITH RESPECT TO EACH
23 DWELLING UNIT SHALL BE RETAINED OR MATCH THOSE OF THE OTHER UNIT.
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26 21.42.060 - BCE Business Corridor Enhancement district.

27 E. Uses Deemed Conforming. Uses existing on October 11, 1993 are deemed conforming
28 for the purposes of expansion, pursuant to Section 21.68.030 of this Zoning Code. SINGLE-
29 FAMILY RESIDENTIAL ATTACHED AND DETACHED DWELLINGS AND TWO-FAMILY
30 DWELLINGS MAY BE EXPANDED FOR RESIDENTIAL USE IF THE EXPANSION
31 OTHERWISE MEET THE REQUIREMENTS OF THE R2 DISTRICT, INCLUDING THE
32 SETBACK AND HEIGHT LIMITATIONS IN ACCORDANCE WITH SINGLE-FAMILY
33 DETACHED DWELLINGS.
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36 21.46.030 - WMM Waterfront Mixed Maritime district.

37 D. Uses Deemed Conforming. The following uses are deemed conforming pursuant to
38 Section 21.68.030 of this Zoning Code:

39 1. Single-family residential attached and detached dwellings AND TWO-FAMILY
40 DWELLINGS, lawfully existing on August 24, 1987, may be expanded for residential use if the
41 expansion otherwise meet the requirements of the R2-NC Single-Family Residence
42 Neighborhood Conservation district, INCLUDING THE SETBACK AND HEIGHT LIMITATIONS
43 IN ACCORDANCE WITH SINGLE-FAMILY DETACHED DWELLINGS. Unlawful uses
44 occupying such residences on August 24, 1987 are not deemed to be conforming.

45 2. SINGLE-FAMILY ATTACHED AND DETACHED DWELLINGS AND TWO-FAMILY
46 DWELLINGS DEEMED CONFORMING MAY BE EXPANDED FOR RESIDENTIAL USE IF
47 THEY OTHERWISE MEET THE REQUIREMENTS OF THIS DISTRICT, INCLUDING THE
48 SETBACK AND HEIGHT LIMITATIONS IN ACCORDANCE WITH SINGLE-FAMILY
49 DETACHED DWELLINGS
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21.46.040 - WMI Waterfront Maritime Industrial district.

E. Uses Deemed Conforming. The following uses are deemed conforming pursuant to Section 21.68.030 of this Zoning Code:

1. Single-family residential attached and detached dwellings AND TWO-FAMILY DWELLINGS, lawfully existing on August 24, 1987 may be expanded for residential use if the expansion otherwise meets the requirements of the R2 district, INCLUDING THE SETBACK AND HEIGHT LIMITATIONS IN ACCORDANCE WITH SINGLE-FAMILY DETACHED DWELLINGS. Unlawful uses occupying such residences on August 24, 1987 are not deemed to be conforming.

21.46.050 - WME Waterfront Maritime Eastport district

E. Uses Deemed Conforming. The following uses are deemed conforming pursuant to Section 21.68.030 of this Zoning Code:

1. Multifamily dwellings in structures of five units or less lawfully existing on August 24, 1987 if duly licensed in accordance with City codes and with an occupancy permit.

2. Single-family residential attached and detached dwellings AND TWO-FAMILY DWELLINGS, lawfully existing on August 24, 1987, may be expanded for residential use if the expansion otherwise meets the requirements of the R2-NC Single-Family Residence Neighborhood Conservation district, INCLUDING THE SETBACK AND HEIGHT LIMITATIONS IN ACCORDANCE WITH SINGLE-FAMILY DETACHED DWELLINGS; properties on Shipwright Street may be expanded for residential use if the expansion otherwise meets the requirements of the C1 Conservation Residence district, INCLUDING THE SETBACK AND HEIGHT LIMITATIONS IN ACCORDANCE WITH SINGLE-FAMILY DETACHED DWELLINGS. Unlawful uses occupying such residences on August 24, 1987 are not deemed to be conforming.

21.48.010 - Table of Uses—Residential Zoning Districts.

Strike the following footnote from the use tables in 21.48.010 - Table of Uses—Residential Zoning Districts.

1 Duplex units existing on August 10, 1970, may be altered or enlarged provided that the alteration or enlargements otherwise meet the provisions of the R2 zoning district, except that the shared lot line between each half of the duplex unit must meet the provisions of the R3, General Residence District, and subject to minor site design plan review.

21.58.030 - Regulations.

In the OCD district the following regulations apply:

F. Uses Deemed Conforming.

1. The following uses are deemed to be conforming, pursuant to Section 21.68.030 of this Zoning Code, provided they were legally existing on November 19, 1990:

a. Single-family attached and detached dwellings AND TWO-FAMILY DWELLINGS

3. Expansion of Uses Deemed Conforming.

a. Single-family attached and detached dwellings AND TWO-FAMILY DWELLINGS deemed conforming may be expanded for residential use if they otherwise meet the requirements of the underlying district, INCLUDING THE SETBACK AND HEIGHT LIMITATIONS IN ACCORDANCE WITH SINGLE-FAMILY DETACHED DWELLINGS.

21.72 - Terms and Definitions

21.72.010 - Terms.

D. List of Definitions.

"Dwelling" means a building, or portion of a building, designed or used exclusively for residential occupancy. Includes the following unit types:

- a. Single-family detached dwellings,
- b. Single-family attached dwellings,
- c. Multifamily dwellings,
- d. Two-family dwellings, and
- e. Dwellings above the ground floor of nonresidential uses.

The term "dwelling" does not include house trailers and hotels.

Dwelling, Multi-Family. See illustration. "Multi-family dwelling" means a building, or portion of a building, containing three or more dwelling units.

Dwelling, Single-Family Detached. See illustration. "Single-family detached dwelling" means a building containing one dwelling unit that is surrounded entirely by open space on the same lot.

Dwelling, Single-Family Attached. See illustration. "Single-family attached dwelling" means one of a series of **TWO** [three] or more dwellings that **CAN BE** [is] joined to another dwelling at one or more sides by a party wall or walls, with each unit having its own separate exterior entrance(s). For example, townhouse, rowhouse, **TWO-FAMILY DWELLING**, and quadraplex units are single-family attached dwellings.

Dwelling, Two-Family. See illustration. "Two-family dwelling" means a building containing two dwelling units. Examples:

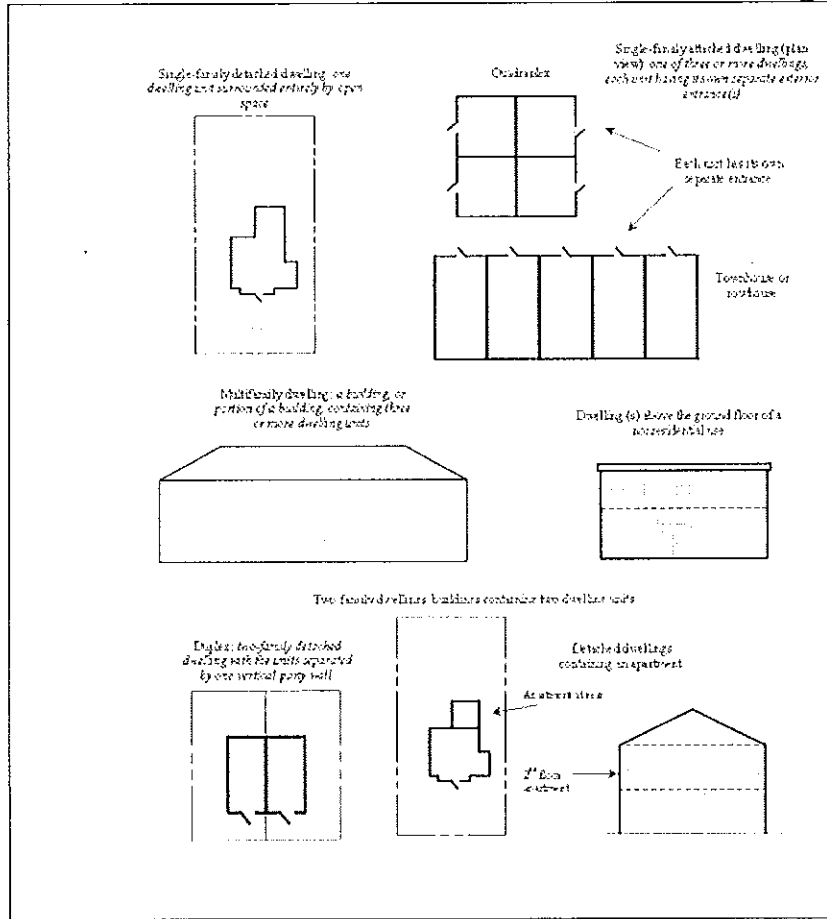
- a. A detached dwelling containing an apartment is a two-family detached dwelling.
- b. A duplex is a two-family detached dwelling with the units separated by one vertical party wall without openings extending from the basement floor to the roof along the dividing lot line.

"Dwelling unit" means any habitable room or a group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking and eating of meals.

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Illustrations for dwelling unit definitions

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Single-family attached dwelling (plan view): one of **TWO** [three] or more dwellings, each unit having its own separate exterior entrance(s)

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SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this Ordinance shall take effect from the date of its passage.

ADOPTED this 10th day of June, 2013.

ATTEST:

THE ANNAPOLIS CITY COUNCIL

Regina C. Watkins-Eldridge, MMC, City Clerk

BY

Joshua I. Cohen, Mayor

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EXPLANATION:

CAPITAL LETTERS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates amendments.

Staff and Policy Report

Ordinance O-25-11

The Definition of a Two-family Dwelling

The proposed ordinance revises the definition of "single-family attached dwelling" to include "two-family dwelling." When Title 21 of the City Code was re-codified in 2005, two-family dwellings were excluded from the definition of "single-family attached dwelling" in order to allow for certain dwelling arrangements that did not fall into the category of single-family attached. For example, there was no category for a dwelling unit with an accessory apartment or for two units with one unit on top of the other. The code change in 2005 was meant to provide a specific category for these types of dwelling.

However, this change inadvertently excluded two-family dwellings from several zoning districts where this had been a use deemed conforming. In these districts, two-family dwellings were no longer listed as a use deemed conforming, although single-family attached and detached dwellings were specifically enumerated. In March 2010, there was a zoning text amendment adopted to correct this problem in the R2NC district. This currently proposed ordinance will restore two-family dwellings under the definition of single-family attached dwellings and correct this omission in the other zoning districts that were affected by the 2005 definition change.

Prepared by Sally Nash, Senior Comprehensive Planner in Planning and Zoning (SNash@annapolis.gov) and Jessica Cowles, Legislative and Policy Analyst in the Office of Law (JCCowles@annapolis.gov).